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07 MAY 31 PM 3:37

RICHARD W. WIERING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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**E-Filing**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

12 DERWIN GRANT,

13 Plaintiff,

14 vs.

15 AFNI, INC.,

16 Defendant.

CASE NO.:  
**C 07 2850**

**NOTICE OF REMOVAL**

**BY FAX**

**EMC**

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that defendant Afni, Inc. hereby removes to this  
3 Court the state court action described below.

4 1. On April 27, 2007 a Complaint was filed against Afni, Inc. by  
5 plaintiff Derwin Grant in an action pending in the small claims division of the  
6 Superior Court of the State of California in and for the County of San Francisco,  
7 entitled *Derwin Grant v. Afni, Inc.*, Case No. 821213. A copy of the state court  
8 complaint ("Complaint") is attached hereto as **Exhibit A**.

9 2. This removal petition is timely under 28 U.S.C. § 1446(b) because  
10 Afni, Inc. first received a copy of the Complaint, via certified United States mail  
11 upon its agent for service of process, on May 2, 2007.

12 **JURISDICTION**

13 3. This action is a civil action of which this Court has original  
14 jurisdiction under 28 U.S.C. § 1331 and that may be removed to this Court by  
15 Afni, Inc. pursuant to the provisions of 28 U.S.C. § 1441(b) in that the Complaint  
16 asserts federal claims against the defendant allegedly arising under the Fair Debt  
17 Collection Practices Act, 15 U.S.C. § 1692 *et seq.* and the Fair Credit Reporting  
18 Act, 15 U.S.C. § 1681 *et seq.*

19 4. As the Complaint was filed in the Superior Court of the State of  
20 California, County of San Francisco, venue in the San Francisco Division or the  
21 Oakland Division of this District is proper. *See* 28 U.S.C. § 1441(a) (providing  
22 for removal "to the district court of the United States for the district and division  
23 embracing the place" where the state court action is pending); 28 U.S.C. § 84(a)  
24 (Northern District comprises, *inter alia*, the county of San Francisco); N.D. Cal.  
25 L.R. 3-2(d) (civil actions arising in county of San Francisco shall be assigned to  
26 San Francisco or Oakland division).

5. Defendant Afni, Inc. is represented by the undersigned.

DATED: May 31, 2007

SIMMONDS & NARITA, LLP  
TOMIO B. NARITA  
JEFFREY A. TOPOR

By: 

Jeffrey A. Topor  
Attorneys for Defendant

Exhibit A

**CC COPY****SC-100****Plaintiff's Claim and ORDER  
to Go to Small Claims Court****Notice to the person being sued:**

- You are the Defendant if your name is listed in ② on page 2 of this form. The person suing you is the Plaintiff, listed in ① on page 2.
- You and the Plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

**Aviso al Demandado:**

- Usted es el Demandado si su nombre figura en ② de la página 2 de este formulario. La persona que lo demanda es el Demandante, la que figura en ① de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

**Order to Go to Court****The people in ① and ② must go to court:** (Clerk fills out section below.)

<b>Trial Date</b>	<b>Date</b>	<b>Time</b>	<b>Department</b>	<b>Name and address of court if different from above</b>
1.	JUN 08 2007	1:30 PM	506	(5TH FLOOR)
2.				
3.				

Date: APR 27 2007 Clerk, by V. GONZALEZ, Deputy

**Instructions for the person suing:**

- You are the Plaintiff. The person you are suing is the Defendant.
- Before you fill out this form, read Form SC-150, *Information for the Plaintiff (Small Claims)*, to know your rights. Get SC-150 at any courthouse or county law library, or go to: [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms)
- Fill out pages 2 and 3 of this form. Then make copies of all pages of this form. (Make 1 copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18—not you or anyone else listed in this case—give each Defendant a court-stamped copy of all 5 pages of this form and any pages this form tells you to attach. There are special rules for “serving,” or delivering, this form to public entities, associations, and some businesses. See Forms SC-104, SC-104B, and SC-104C.
- Go to court on your trial date listed above. Bring witnesses, receipts, and any evidence you need to prove your case.

Clerk stamps date here when form is filed.

**ENDORSED  
FILED**  
San Francisco County Superior Court

APR 27 2007

GORDON PARK-LI, Clerk  
BY V. GONZALEZ  
Deputy Clerk

Fill in court name and street address:

Superior Court of California, County of

**SMALL CLAIMS  
SUPERIOR COURT**  
400 McALLISTER, ROOM 103  
SAN FRANCISCO, CALIFORNIA 94102

Clerk fills in case number and case name:

Case Number:

821213

Case Name: Derwin Grant  
vs.  
AFNI, Inc.

Case Number:

**821213**

Plaintiff (list names): \_\_\_\_\_

**① The Plaintiff (the person, business, or public entity that is suing) is:**Name: Derwin GrantPhone: (415) 342-6770Street address: 245 Henry Street San Francisco CA 94114  
Street City State ZipMailing address (if different): \_\_\_\_\_  
Street City State Zip**If more than one Plaintiff, list next Plaintiff here:**

Name: \_\_\_\_\_ Phone: ( )

Street address: \_\_\_\_\_  
Street City State ZipMailing address (if different): \_\_\_\_\_  
Street City State Zip☐ Check here if more than 2 Plaintiffs and attach Form SC-100A.☐ Check here if either Plaintiff listed above is doing business under a fictitious name. If so, attach Form SC-103.**② The Defendant (the person, business, or public entity being sued) is:**Name: AFNI INCPhone: (866) 857-7203Street address: 404 BROOK DR BLOOMINGTON IL 61701  
Street City State ZipMailing address (if different): \_\_\_\_\_  
Street City State Zip**If more than one Defendant, list next Defendant here:**

Name: \_\_\_\_\_ Phone: ( )

Street address: \_\_\_\_\_  
Street City State ZipMailing address (if different): \_\_\_\_\_  
Street City State Zip☐ Check here if more than 2 Defendants and attach Form SC-100A.☐ Check here if any Defendant is on active military duty, and write his or her name here: \_\_\_\_\_**③ The Plaintiff claims the Defendant owes \$ 3000. (Explain below):**a. Why does the Defendant owe the Plaintiff money? violation of FCRA and  
FDCPA laws.b. When did this happen? (Date): \_\_\_\_\_  
If no specific date, give the time period: Date started: 9/02 Through: Presentc. How did you calculate the money owed to you? (Do not include court costs or fees for service.) Based  
on previous awards, see attachment☒ Check here if you need more space. Attach one sheet of paper or Form MC-031 and write "SC-100, Item 3" at the top.

Case Number:

**821213**

Plaintiff (list names): \_\_\_\_\_

- ④ You must ask the Defendant (in person, in writing, or by phone) to pay you before you sue. Have you done this? ☒ Yes ☐ No

If no, explain why not: \_\_\_\_\_

- ⑤ Why are you filing your claim at this courthouse?

This courthouse covers the area (check the one that applies):

- a. ☒ (1) Where the Defendant lives or does business. (4) Where a contract (written or spoken) was made, signed, performed, or broken by the Defendant *or* where the Defendant lived or did business when the Defendant made the contract.  
 (2) Where the Plaintiff's property was damaged.  
 (3) Where the Plaintiff was injured.
- b. ☐ Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim is about an offer or contract for personal, family, or household goods, services, or loans. (Code Civ. Proc., § 395(b).)
- c. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). (Civil Code, § 1812.10.)
- d. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (Civil Code, § 2984.4.)
- e. ☒ Other (specify): Plaintiff's Residence

- ⑥ List the zip code of the place checked in ⑤ above (if you know): \_\_\_\_\_

- ⑦ Is your claim about an attorney-client fee dispute? ☐ Yes ☐ No

If yes, and if you have had arbitration, fill out Form SC-101, attach it to this form, and check here: ☐

- ⑧ Are you suing a public entity? ☐ Yes ☐ No

If yes, you must file a written claim with the entity first. ☐ A claim was filed on (date): \_\_\_\_\_

If the public entity denies your claim or does not answer within the time allowed by law, you can file this form.

- ⑨ Have you filed more than 12 other small claims within the last 12 months in California?

☐ Yes ☐ No If yes, the filing fee for this case will be higher.

- ⑩ I understand that by filing a claim in small claims court, I have no right to appeal this claim.

- ⑪ I have not filed, and understand that I cannot file, more than two small claims cases for more than \$2,500 in California during this calendar year.

I declare, under penalty of perjury under California State law, that the information above and on any attachments to this form is true and correct.

Date: 4-27-07 Derwin Grant  
Plaintiff types or prints name here▶ Derwin Grant  
Plaintiff signs hereDate: \_\_\_\_\_  
Second Plaintiff types or prints name here▶ \_\_\_\_\_  
Second Plaintiff signs here**Requests for Accommodations**

Assistive listening systems, computer-assisted, real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the trial. Contact the clerk's office for Form MC-410, Request for Accommodations by Persons With Disabilities and Order. (Civil Code, § 54.8.)



~~82~~ 1 2 1 3

SC-100, Item 3

Defendant is in violation of multiple laws related to collection and reporting of debt including:

- 1) The account has been re-aged and is in violation of Re-age (cb and ca) FCRA section 605. Damage assessment \$1000
- 2) Did not validate debt according to law and continued collection activities which is in violation of FDCPA section 809(b), FTC opinion letter Cass from LeFevre. Damage assessment \$1000
- 3) Did not validate debt and continued to report to credit bureau which is in violation of FDCPA section 809(b), FTC opinion letter Cass from LeFevre. Damage assessment \$1000

Historical court award for violation has been \$1000 each.



**SC-100****Information for the Defendant (the person being sued)**

**"Small claims court"** is a special court where claims for \$5,000 or less are decided. A "natural person" (not a business or public entity) may claim up to \$7,500. The process is quick and cheap. The rules are simple and informal.

You are the Defendant—the person being sued. The person who is suing you is the Plaintiff.

**Do I need a lawyer?**

You may talk to a lawyer before or after the case. But you *may not* have a lawyer represent you in court (unless this is an appeal from a small claims case).

**How do I get ready for court?**

You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and any evidence that supports your case. And read "Get Ready for Court" at: [www.courtinfo.ca.gov/selfhelp/smallclaims/getready.htm](http://www.courtinfo.ca.gov/selfhelp/smallclaims/getready.htm)

**What if I need an accommodation?**

If you have a disability or are hearing impaired, fill out Form MC-410, *Request for Accommodations*. Give the form to your court clerk or the ADA/Access Coordinator.

**What if I don't speak English well?**

Ask the clerk if the court can give you an interpreter for free. If not, bring someone—like an adult relative or friend—who can interpret for you in court. It is best if your interpreter is not a witness or listed in this case. Or ask the clerk for a list of interpreters. (Interpreters usually charge a fee.)

**Where can I get the court forms I need?**

Go to any courthouse or your county law library, or print forms at: [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms)

**What happens at the trial?**

The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

**What if I lose the case?**

If you lose, you can appeal. You'll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file Form SC-140, *Notice of Appeal*. You must file within 30 days after the judge's decision.
- If you were *not* at the trial, fill out and file Form SC-135, *Notice of Motion to Vacate Judgment and Declaration*, to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File Form SC-140.

For more information on appeals, see:

[www.courtinfo.ca.gov/selfhelp/smallclaims/appeal.htm](http://www.courtinfo.ca.gov/selfhelp/smallclaims/appeal.htm)

**Do I have options?**

Yes. If you are being sued, you can:

- **Settle your case before the trial.** If you and the Plaintiff agree on how to settle the case, both of you must notify the court. Ask the Small Claims Advisor for help.
- **Prove this is the wrong court.** Send a letter to the court *before* your trial, explaining why you think this is the wrong court. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done this.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To make sure the witnesses go to the trial, fill out Form SC-107, and the clerk will subpoena (order) them to go.
- **Sue the person who is suing you.** File Form SC-120, *Defendant's Claim*. There are strict filing deadlines you must follow.
- **Agree with the Plaintiff's claim and pay the money.** Or, if you can't pay the money now, go to your trial and say you want to make payments.
- **Let the case "default."** If you don't settle and do not go to the trial (default), the judge may give the Plaintiff what he or she is asking for plus court costs. If this happens, the Plaintiff can legally take your money, wages, and property to pay the judgment.

**What if I need more time?**

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial) *or*
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county) *or*
- You need more time to get an interpreter. One postponement is allowed, and you will not have to pay a fee to delay the trial.

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out Form SC-110 (or write a letter) and mail it to the court *and* to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.

**Need help?**

Your county's Small Claims Advisor can help for free.

Or go to "County-Specific Court Information" at:  
[www.courtinfo.ca.gov/selfhelp/smallclaims](http://www.courtinfo.ca.gov/selfhelp/smallclaims)

**SC-100****Información para el demandado (la persona demandada)**

La "**Corte de reclamos menores**" es una corte especial donde se deciden casos por \$5,000 ó menos. Una "persona natural" (que no sea un negocio ni una entidad pública) puede reclamar hasta \$7,500. El proceso es rápido y barato. Las reglas son sencillas e informales.

Usted es el Demandado — la persona que se está demandando. La persona que lo está demandando es el Demandante.

**¿Necesito un abogado?**

Puede hablar con un abogado antes o después del caso. Pero *no puede* tener a un abogado que lo represente ante la corte (a menos que se trate de una apelación de un caso de reclamos menores).

**¿Cómo me preparo para ir a la corte?**

No tiene que presentar ningunos papeles antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio cualquier testigos, recibos, y cualquier pruebas que apoyan su caso. Y lea "Prepárese para la corte" en:

[www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/prepararse.htm](http://www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/prepararse.htm)

**¿Qué hago si necesito una adaptación?**

Si tiene una discapacidad o tiene impedimentos de audición, llene el formulario MC-410, *Request for Accommodations*. Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

**¿Qué pasa si no hablo bien inglés?**

Pregúntele al secretario si la corte le puede dar un intérprete sin costo. Si no, lleve consigo a alguien— ya sea un pariente adulto o amigo— que pueda servirle de intérprete en la corte. O pide del secretario una lista de intérpretes. Es mejor que su intérprete no sea un testigo ni una persona que figure en este caso. (Los intérpretes en general cobran un honorario.)

**¿Dónde puedo obtener los formularios de la corte que necesito?**

Vaya a cualquier edificio de la corte, la biblioteca legal de su condado o imprima los formularios en:

[www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms)

**¿Qué pasa en el juicio?**

El juez escuchará a ambas partes. El juez puede tomar su decisión durante la audiencia o enviársela por correo después.

**¿Qué pasa si pierdo el caso?**

Si pierde, puede apelar. Tendrá que pagar una cuota. (El Demandante no puede apelar su propio reclamo.)

- Si estuvo presente en el juicio, llene el formulario SC-140, *Aviso de apelación*. Tiene que presentarlo dentro de 30 días después de la decisión del juez.
- Si no estuvo en el juicio, llene y presente el formulario SC-135, *Aviso de petición para anular el fallo y Declaración para pedirle al juez que anule el fallo* (decisión). Si la corte no le otorga un nuevo juicio, tiene 10 días para apelar la decisión. Presente el formulario SC-140.

Para obtener más información sobre las apelaciones, vea: [www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/apelar.htm](http://www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/apelar.htm)

**¿Tengo otras opciones?**

Sí. Si lo están demandando, puede:

- **Resolver su caso antes del juicio.** Si usted y el Demandante se ponen de acuerdo en resolver el caso, ambos tienen que notificar a la corte. Pídale al Asesor de Reclamos Menores que lo ayude.
- **Probar que es la corte equivocada.** Envíe una carta a la corte *antes* del juicio explicando por qué cree que es la corte equivocada. Pídale a la corte que despida el reclamo. Tiene que entregar (dar) una copia de su carta (por correo o en persona) a todas las partes. (Su carta a la corte tiene que decir que hizo la entrega.)
- **Ir al juicio y tratar de ganar el caso.** Lleve testigos, recibos y cualquier prueba que necesite para probar su caso. Para asegurarse que los testigos vayan al juicio, llene el formulario SC-107, y el secretario emitirá una orden de comparecencia ordenándoles que se presenten.
- **Demandar a la persona que lo demandó.** Presente el formulario SC-120, *Reclamo del demandado*. Hay fechas límite estrictas que debe seguir.
- **Aceptar el reclamo del Demandante y pagar el dinero.** O, si no puede pagar en ese momento, vaya al juicio y diga que quiere hacer los pagos.
- **No ir al juicio y aceptar el fallo por falta de comparecencia.** Si no llega a un acuerdo con el Demandante y no va al juicio (fallo por falta de comparecencia), el juez le puede otorgar al Demandante lo que está reclamando más los costos de la corte. En ese caso, el Demandante legalmente puede tomar su dinero, su sueldo o sus bienes para cobrar el fallo.

**¿Qué hago si necesito más tiempo?**

Puede cambiar la fecha del juicio si:

- No puede ir a la corte en la fecha programada (tendrá que pagar una cuota para aplazar el juicio) o
- No le entregaron los documentos legalmente (no recibió la orden para ir a la corte) por lo menos 15 días antes del juicio (ó 20 días si vive fuera del condado) o
- Necesita más tiempo para conseguir intérprete. (Se permite un solo aplazamiento sin tener que pagar cuota para aplazar el juicio).

Pregúntele al secretario de reclamos menores sobre las reglas y las cuotas para aplazar un juicio. O llene el formulario SC-110 (o escriba una carta) y envíelo antes del plazo a la corte y a todas las otras personas que figuran en sus papeles de la corte. Adjunte un cheque para pagar los costos de la corte, a menos que le hayan dado una exención.



**¿Necesita ayuda?** El Asesor de Reclamos Menores de su condado le puede ayudar sin cargo.

O vea "Información por condado" en: [www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores](http://www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores)